

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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W.P.No.10031 of 1998

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Dated 20th day of March, 2007

Between:

A. Sai and 11 others
Petitioners

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And

The Executive Engineer,
Irrigation & Command Area Development,
Nellore
and two others
Respondents

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ORDER:

This writ petition is filed seeking a mandamus to declare the action of the 2nd respondent in issuing Memo No.44-B, dated 20.3.1998 proposing to evict the petitioners from the sites admeasuring 6 Ft. x 6 Ft. each under their occupation, as arbitrary and illegal, and consequently direct the respondents to consider the petitioners' representation for leasing out the sites.

The brief facts of the case are that the petitioners have been in occupation of small extents of land on the Right Bank Margin of Survepally channel which is situated on the eastern side of the Bypass road passing through James Garden, opposite to Atmakur R.T.C. Bus stand, for the last several years. In the year 1994, the Nellore Municipality i.e. the 3rd respondent allotted about 54 shop rooms to the persons, who were evicted from R.T.C. Bus stand. The land occupied by each of the petitioners is 6 Ft. x 6 Ft. which is situated far away from the road margin. The encroachments are not objectionable and in no way affecting the channel bund as they are at an elevated place. Now, the petitioners' grievance is that though they filed a representation dated 9.3.1998 requesting to lease out the sites in question, the 1st respondent has not passed any orders in their favour. While so, the 2nd respondent issued Memo dated 20.3.1998 to the 8th and 9th petitioners directing them to vacate the Government land under their occupation.

In spite of the fact that notices were served on the respondents, they have not chosen to file their counter affidavit.

Having heard the learned counsel for the petitioners and in view of the facts and circumstances of the case, this Court deems it appropriate to direct the respondents to consider the petitioners' representation for leasing out the sites admeasuring 6' x 6' each which are under their occupation provided the law permits, and till such consideration, the petitioners shall not be evicted from the sites in question.

With the above direction, this writ petition is disposed of. No costs.

bcj

20.03.2007